

**FLATHEAD COUNTY BOARD OF ADJUSTMENT
MINUTES OF THE MEETING
MAY 4, 2010**

**CALL TO
ORDER**

A meeting of the Flathead County Board of Adjustment was called to order at approximately 6:00 p.m. Board members present were Gina Klempel, Mark Hash, Gary Krueger and Craig Wagner. Scott Hollinger had an excused absence. Bailey Iott, Allison Mouch, Andrew Hagemeyer and B J Grieve represented the Flathead County Planning & Zoning Office.

There were 15 people in the audience.

**APPROVAL OF
MINUTES**

Krueger motioned and Hash seconded to approve the 4/6/10 minutes. The motion passed unanimously with Klempel abstaining.

**PUBLIC
COMMENT
(not related to
agenda items)**

None.

**BIGFORK
WATER AND
SEWER
(FPAE 10-02)**

A request by the Bigfork Water and Sewer District to improve the current facility by constructing new buildings to house new wastewater treatment processes. The property is located off Harbor Heights Blvd in Bigfork. Morrison Maierle, Inc. gave notice to the Board of Adjustment of Flathead County that it intends to construct new buildings and access drives which would be contrary to zoning regulations adopted by Flathead County as the property is zoned B-3, (Community Business). Pursuant to 76-2-402, MCA the board shall have no power to deny the proposed use but shall act only to allow a public forum for comment on the proposed use.

STAFF REPORT

Bailey Iott reviewed Staff Report FPAE 10-02 for the Board.

**APPLICANT
PRESENTATION**

None.

**PUBLIC
COMMENT**

None.

**JOSEPH
ESLICK
(FCU 10-02)**

A request by Joseph Eslick for a Conditional Use Permit for an extractive industry to remove five to six inches of topsoil on property located within the Holt, SAG-10 (Suburban Agricultural) Zoning District. The proposal site is located at 7645 MT Highway 35.

STAFF REPORT

Andrew Hagemeyer reviewed FCU 10-02 for the board.

**BOARD
QUESTIONS**

Hagemeyer passed out to the board several handouts.

Wagner asked if the applicant already had an approved mining permit from DEQ.

Hagemeyer said no, the Conditional Use Permit (CUP) was the first step.

Wagner said they had already started the extraction process.

Hagemeyer said that information came to light at the BLUAC meeting. He said the applicant would probably speak to that issue.

**APPLICANT
PRESENTATION**

Paul Eslick, applicant, wanted to clear up the question if they had already started to extract soil. He explained with detail the process he went through with the state DEQ which allowed him to excavate up to five acres of material from the site before he obtained the CUP of which the application was before the board tonight.

**BOARD
QUESTIONS**

None.

**PUBLIC
COMMENT**

None.

**BOARD
DISCUSSION**

Hash said he would reword condition #3. He assumed a permit would be required.

Hagemeyer said the applicant would need a permit after he extracted five acres.

Eslick explained where he was at and the paperwork he had accrued in the process for the permit.

Krueger asked Grieve if the applicant would be able to come in and ask to strip additional acreage at a later date.

Grieve said he could expand the use at a later time.

Grieve, Krueger and Eslick discussed what the process would be and possible problems to extract more acreage at a later date.

Krueger said they should have hours of operation stated in the conditions and explained why.

Klempel asked Eslick for clarification on which hours he was asking to operate.

Eslick clarified the hours and the fact the hours of operation would be seasonal.

**MAIN MOTION
AMEND
CONDITION #4
(FCU 10-02)**

Krueger made a motion seconded by Klempel to amend Condition #4 to read; *The hours of operation shall be limited to 7 am to 7 pm. Monday through Saturday.*

**BOARD
DISCUSSION**

The board briefly discussed procedure.

The motion was withdrawn.

**MAIN MOTION
TO ADOPT
F.O.F., AMEND
CONDITION #3
AND #4 AND
APPROVE AS
CONDITIONED
(FCU 10-02)**

Hash made a motion seconded by Krueger to adopt staff report FCU 10-02 as findings-of-fact, amend

Condition #3 to read; *If DEQ requires a mining permit, the applicant will receive an approved mining permit for the proposed operation, if DEQ does not require a mining permit: the applicant will provide a letter from DEQ for such a determination and*

Condition #4 to read; *Hours of operations shall be limited to 7:00 am to 7:00 pm Monday through Saturday and approve.*

**BOARD
DISCUSSION**

Grieve and the board discussed proper procedure.

**ROLL CALL TO
ADOPT F.O.F.,
AMEND
CONDITION #3
AND #4 AND
APPROVE AS
CONDITIONED
(FCU 10-02)**

On a roll call vote the motion passed unanimously.

**GLACIER WEST
ONE
(FCU 10-03)**

A request by Glacier West One, LLC for a Conditional Use Permit to allow multiple uses on one tract of land. The property is located within the Evergreen, B-2 (General Business) Zoning District at 2602 Highway 2 East, on the northwest corner of Highway 2 East and West Reserve Drive.

STAFF REPORT

Allison Mouch reviewed FCU 10-03 for the board.

**BOARD
QUESTIONS**

None.

**APPLICANT
PRESENTATION**

Mark Johnson, project architect, gave a history of the property and past uses, what improvements had been made on the property, the elimination of a potential hazard with the removal of the underground fuel tanks, the improvement of esthetic value of the corner, the service provided to the community with the businesses on the property and the reduction of traffic flow.

Colleen Donohue, with the firm of Johnson, Berg, McEvoy, and Bostock represented Glacier West One, LLC. The firm drafted the declaration of condominium. Glacier West One wished to set up a two unit business condominium with Glacier Insurance as one unit and West One Bank as another with the carwash as a common element. It was during that process they realized they needed a conditional use permit for all three primary uses.

**BOARD
QUESTIONS**

None.

**PUBLIC
COMMENT**

Darren Engelant, one of the owner applicants, asked for the board's support for this application. He gave a history of the property to date and what had been done so far to improve it.

BOARD

Klempel asked how long had the bank been in operation.

QUESTIONS

Engelant said he was a partner with the bank. The bank had been in operation for five or six years. The branch which was in the application opened two years ago.

MAIN MOTION TO ADOPT F.O.F. AND APPROVE (FCU 10-03)

Hash made a motion seconded by Klempel to adopt staff report FCU 10-02 as findings-of-fact and approve as conditioned.

BOARD DISCUSSION

None.

ROLL CALL TO ADOPT F.O.F., AND APPROVE (FCU 10-03)

On a roll call vote, the motion passed unanimously.

BOARD DISCUSSION

The board took a ten minute recess to review the correct staff report for FCU 09-10.

SUSIE THOMPSON / LITTLE BITTY RANCH (FCU 09-10)

A request by Susie Thompson for a Conditional Use Permit to operate a camp and retreat center within the Evergreen, R-1 (Suburban Residential) Zoning District. The property is located at 95 West Reserve Drive.

STAFF REPORT

Allison Mouch reviewed FCU 09-10 for the board.

BOARD QUESTIONS

The board and staff discussed at length enforcement of the proposed offsite parking, safety issues of offsite parking, possible problems with offsite parking on sites which were not owned by the applicant, recommended number of parking spots, number of employees and ways to mitigate these issues.

APPLICANT PRESENTATION

Susie Thompson, applicant, evaluated the areas available for parking and said they had a potential for 15 parking spots on the property now. She elaborated how she arrived at that total. She explained how the safety concern was mitigated by the extra width of the sidewalk and the fact it was only two houses away where the cars would park. She explained what her goals were with the ranch, why she applied for the CUP and things already in place for success of the business.

**BOARD
QUESTIONS**

Krueger asked if schools visiting the property would be by appointment.

Thompson said yes, and elaborated how that would happen.

Krueger said that would alleviate the issue of more than one bus at a time.

Thompson said she was very interested in being compliant and would keep the planning office informed if anything changed.

Klempel asked for clarification on the hours of operation.

Thompson clarified.

**PUBLIC
COMMENT**

Perry Nelson, who had two daughters who went to the Little Bitty Ranch, was generally in favor of the application. He spoke on the safety, parking and educational aspects of the property and use.

Pamela Roberts, physician and member of the board of Little Bitty Ranch, wanted to vouch for Thompson's character and was generally in favor of the application.

Lacey Shiele, commented on how the Little Bitty Ranch had helped her and how it would be an asset to the area. She was generally in favor of the application.

Silver Nelson, had been visiting the ranch for seven months and said it had been a great thing for her and would be for other families who would visit the ranch. She was generally in favor of the application.

Taylor Spring, has gone to the Little Bitty Ranch for seven months as well and commented on the opportunities she had been given to learn new things. She was generally in favor of the application.

**BOARD
DISCUSSION**

Hash said it was a good concept and the office had worked hard to come up with solutions to the problems with the area. He proposed amended conditions possibilities which might mitigate concerns with safety and parking.

The board and staff discussed potential ways to mitigate the safety and parking concerns.

Grieve clarified proper procedure to deal with findings 5 and 7 if the board desired.

**MAIN MOTION
TO ADOPT
F.O.F., AMEND
F.O.F. #5 AND
#7, AMEND
CONDITION #7
AND #15, ADD
CONDITION #16
AND APPROVE
(FCU 09-10)**

Hash made a motion seconded by Klempel to adopt staff report FCU 09-10 as findings-of-fact, amend

Finding # 5 to read: A risk to public health and safety exists as a result of the proposed parking layout because the off-site parking accommodations have the potential to create conflict between pedestrians walking to and from the facility and traffic traveling along the West Reserve corridor. Without accommodating all parking onsite, these impacts may not be effectively mitigated. *Based on testimony received from the applicant and others during the public hearing, the Board feels impacts to public health and safety have been adequately addressed because the sidewalks are wide enough according the MDT standards to safely accommodate children walking to and from the property, and because additional impacts can be mitigated through the imposition of appropriate conditions., and*

Finding #7 to read: Impacts to the traffic flow along the West Reserve corridor are anticipated as a result of the proposed camp and retreat center because two off-site parking areas would be utilized for bus and overflow parking, resulting in multiple, recurring trips to and from the facility using uncontrolled access points onto a major thoroughfare. This impact may not be effectively mitigated without the ability to accommodate all parking onsite. *Based on testimony received from the applicant and others during the public hearing, the Board feels impacts to public health and safety can be adequately addressed by adding conditions requiring onsite drop-off/pick-up location for buses as well as a condition requiring the off-site parking be maintained as proposed, and if changes are made to any aspect of the parking it is the applicant's responsibility to contact the Planning and Zoning Office., amend*

Condition #7 to read: Bus parking to serve the proposed camp and retreat center and to be located off-site on Tract 5C at 46 West Reserve Drive shall adhere to the standards set forth in Section 6.13 of the Flathead County Zoning Regulations for parking in B-2 zoning districts. *Adequate space for bus drop-off and pick-up shall be designated on the subject property located at 95 West Reserve Drive; no children shall be dropped off at or picked up from the bus parking lot laced at 46 West Reserve*

Drive., amend

Condition #15 to read; Hours of operation shall be from ~~9:00 AM – 8:00 PM (May through September) and 9:00 AM – 6:00 PM (October through April).~~ *11:00 AM - 7:00 PM Tuesday through Saturday, from May through September., and add*

Condition #16; All *offsite parking as reviewed and approved will be maintained. If changes to off-site parking occur in the future, it is the applicant's responsibility to contact the Flathead County Planning and Zoning Office to alert them of the change and request an amendment to the Conditional Use Permit., and approve.*

**BOARD
DISCUSSION**

Grieve summarized the motion for the board for clarification.

Klempel raised the question of hours of operation.

Krueger asked if there was a way to condition how many spots would be maintained by the applicant.

The board and staff discussed at length the pros and cons of the question and processes which needed to be followed if any changes in the current situation occurred and possible solutions.

**ROLL CALL TO
ADOPT F.O.F.,
AMEND F.O.F.
#5 AND #7,
AMEND
CONDITION #7
AND #15, ADD
CONDITION #16
AND APPROVE
(FCU 09-10)**

On a roll call vote, the motion passed unanimously.

OLD BUSINESS

None.

NEW BUSINESS

Wagner asked staff how many applications were on the docket for June.

Klempel and Grieve briefly discussed if the board still did administrative reviews, how many were done and what was an administrative review.

ADJOURNMENT

The meeting was adjourned at approximately 7:45 pm. on a

motion by Hash. The next meeting will be held at 6:00 p.m. on June 1, 2010.

Scott Hollinger, President

Donna Valade, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: ____/____/10